

ASSEMBLY BILL

No. 2511

Introduced by Assembly Member Skinner

February 19, 2010

An act to amend Section 1789.35 of the Civil Code, and to amend Section 23036 of the Financial Code, relating to check fees.

LEGISLATIVE COUNSEL'S DIGEST

AB 2511, as introduced, Skinner. Check fees.

Existing law prohibits a check casher from charging a fee of more than \$10 to set up an initial account and issue an optional identification card for providing check cashing services. Existing law makes these provisions applicable to transactions under the California Deferred Deposit Transaction Law.

This bill would make nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1789.35 of the Civil Code is amended
2 to read:
3 1789.35. (a) A check casher shall not charge a fee for cashing
4 a payroll check or government check in excess of 3 percent if
5 identification is provided by the customer, or 3.5 percent without
6 the provision of identification, of the face amount of the check, or
7 three dollars (\$3), whichever is greater. Identification, for purposes
8 of this section, is limited to a California driver's license, a

1 California identification card, or a valid United States military
2 identification card.

3 (b) A check casher may charge a fee of no more than ten dollars
4 (\$10) to set up an initial account and issue an optional identification
5 card for providing check cashing services. A replacement optional
6 identification card may be issued at a cost ~~not to~~ *that shall not*
7 exceed five dollars (\$5).

8 (c) A check casher shall provide a receipt to the customer for
9 each transaction.

10 (d) A check casher may charge a fee for cashing a personal
11 check, as posted pursuant to Section 1789.30, for immediate deposit
12 in an amount not to exceed 12 percent of the face value of the
13 check.

14 (e) Any person who violates any provision of this section shall
15 be liable for a civil penalty not to exceed two thousand dollars
16 (\$2,000) for each violation, which shall be assessed and recovered
17 in a civil action brought in the name of the people of the State of
18 California by the Attorney General in any court of competent
19 jurisdiction. Any action brought pursuant to this subdivision shall
20 be commenced within four years of the date on which the act or
21 transaction upon which the action is based occurred.

22 (f) A willful violation of this section is a misdemeanor.

23 (g) Any person who is injured by any violation of this section
24 may bring an action for the recovery of damages, an equity
25 proceeding to restrain and enjoin those violations, or both. The
26 amount awarded may be up to three times the damages actually
27 incurred, but in no event less than the amount paid by the aggrieved
28 consumer to a person subject to this section. If the plaintiff prevails,
29 the plaintiff shall be awarded reasonable attorney's fees and costs.
30 If a court determines by clear and convincing evidence that a breach
31 or violation was willful, the court, in its discretion, may award
32 punitive damages in addition to the amounts set forth above.

33 ~~(h) This section shall become operative December 31, 2004.~~

34 SEC. 2. Section 23036 of the Financial Code is amended to
35 read:

36 23036. (a) A fee for a deferred deposit transaction shall not
37 exceed 15 percent of the face amount of the check.

38 (b) A licensee may allow an extension of time, or a payment
39 plan, for repayment of an existing deferred deposit transaction but
40 may not charge any additional fee or charge of any kind in

1 conjunction with the extension or payment plan. A licensee that
2 complies with the provisions of this subdivision shall not be
3 deemed to be in violation of subdivision (g) of Section 23037.

4 (c) A licensee shall not enter into an agreement for a deferred
5 deposit transaction with a customer during the period of time that
6 an earlier written agreement for a deferred deposit transaction for
7 the same customer is in effect.

8 (d) A licensee who enters into a deferred deposit transaction
9 agreement, or any assignee of that licensee, shall not be entitled
10 to recover damages for that transaction in any action brought
11 pursuant to, or governed by, Section 1719 of the Civil Code.

12 (e) A fee not to exceed fifteen dollars (\$15) may be charged for
13 the return of a dishonored check by a depository institution in a
14 deferred deposit transaction. A single fee charged pursuant to this
15 subdivision is the exclusive charge for a dishonored check. ~~No fee~~
16 ~~may~~ *A fee shall not* be added for late payment.

17 (f) No amount in excess of the amounts authorized by this
18 section shall be directly or indirectly charged by a licensee pursuant
19 to a deferred deposit transaction.

20 (g) A licensee shall be subject to the provisions of Title 1.6C
21 (commencing with Section 1788) of Part 4 of Division 3 of the
22 Civil Code.